PUBLIC PROSECUTOR

v.

YUSOFF MOHAMAD

HIGH COURT MALAYA, KUALA LUMPUR
KC VOHRAH J
[FT CRIMINAL TRIAL NO. 37 OF 1984]
8 APRIL 1988

CRIMINAL LAW: *Dangerous Drugs - Drugs offence - Accused was in his flat - Cannabis found in room - Accused subsequently led police to discover cannabis hidden in bathroom - Whether in possession of cannabis - Whether accused was trafficking.*

The accused was charged under s. 39B of the Dangerous Drugs Act 1952. The police raided the accused's house and found a package wrapped in newspaper in a box in a room which contained 100 rolls of cannabis. The accused and one Azahar were arrested. The accused then brought the police into the bathroom of the house wherein hidden behind a plastic basin the police found a red plastic bag containing 945 rolls of cannabis. The accused version was that the drugs belonged to Azahar who was visiting him at the time of the police raid. Azahar denied all knowledge of the existence of the drugs and stated that he had only known the accused a week earlier.

Whilst in detention the accused had a fight with Azahar where the accused attempted to persuade Azahar to, admit that half the cannabis belonged to him. Azahar refused and in the scuffle the accused broke Azahar's arm.

Held:
On the evidence adduced by both the prosecution and the defendant no reasonable doubt had been created and on the balance of probabilities it was found that the accused was trafficking in drugs.

[Accused was convicted of the charge.]

Legislation referred to:
Dangerous Drugs Act 1952, ss. 39B(1)(a), (2)

For the public prosecutor - Foo Lee Mei; DPP
For the accused - Azman bin Hood (Idris bin Habib with him); M/s. Idris & Asst.

JUDGMENT

KC Vohrah J:

The accused was charged as follows:

> That you on 21 July 1984 at about 9.00 p.m. at house No. AG-8, Tingkat 8, Blok A, Sulaiman Court, Jalan Raja Laut, in the city of Kuala Lumpur, in the Federal Territory, did on your own behalf traffic in dangerous drugs to wit cannabis weighing a total of 393.58 grammes and you have thereby committed an offence under s. 39B(1)(a) of the Dangerous Drugs Act 1952 (Revised 1980) and punishable under s. 39B(2) of the same Act.

The evidence was that on 21 July 1984 at about 9.00 p.m. Inspector Nordin, PW1, went to a flat at No. AG-8, 8th floor Sulaiman Court, Kuala Lumpur. He knocked at the door of the flat. At that time he was with 3 other police personnel which included Detective Constable (now Corporal) Zakee (PW6). The door was opened by the accused. PW1 introduced himself as a police officer.

On entering the flat PW1 saw another male Malay, Azahar (PW5), watching television in the sitting room.

PW1 explained the purpose of the police being there, and after leaving one Detective Corporal Mustapha in the living room, he took both the accused and Azahar to the bedroom, the only bedroom, in the flat. PW1 searched this room which had 2 beds and he discovered a package wrapped in a piece of newspaper (P7) in a box under a table, the only table in the room. The package contained 100 rolls (P9) of a substance which the chemist report (P23) showed to be 38.03 grammes nett of cannabis. Then both the accused and Azahar were arrested.

PW1 asked the accused and Azahar whether there were "any more of the same stuff kept in the house." The accused who was handcuffed to Azahar brought PW1, Constable Zakee and one Detective Corporal Alias to the bathroom of the flat. The accused then pointed to a plastic basin which was hanging from the wall. PW1 took down this basin and found a red plastic bag (P11) which had been hidden by the basin hanging from a wire. The accused took down the bag and handed it to PW1. The bag held a newspaper wrapper (P12) containing 945 rolls of substance which the chemist report (P23) stated contained 355.55 grammes of cannabis.

PW1 then searched the rest of the flat and brought back both the accused and Azahar together with the exhibits he had seized to his office at Jalan Bandar.

Detective Corporal Zakee (PW6) substantially corroborated the evidence of PW1 as regard what took place at the flat. He said the police party rushed into the flat when the door was opened and he said that one package was discovered in the bedroom and it was the accused who brought them to the bathroom and pointed to a red basin and who took down the red plastic bag from the wall.

Azahar (PW5) stated that he had been in accused's flat for about 10 minutes when the police arrived. He and the accused were brought to a bedroom where a package was discovered. He said the police asked the accused where the rest of stuff was and the accused moved slowly to the bathroom. He said he had to move along with him as he was handcuffed to him. At the bathroom the accused pointed to a basin and when the basin was removed he saw a package. He denied involvement in the drugs.

Azahar under cross-examination was asked if he was injured during detention. He replied that he had been kicked by the accused in the lockup; the accused had told him to admit that half of the drugs were his and half the accused's; when he refused to fall in with the ploy suggested by the accused, the accused kicked him on his right upper arm when he moved down to defend himself; the part of the arm had previously been fractured and this time it sustained a crack. He said he made a police report on the matter. This police report (P19) confirmed Azahar's testimony that the accused had kicked him on his right upper arm. PW5 confirmed that the incident took place on 26 July 1984 as mentioned in the report. The relevant part of the report does not however contain details as to what the ploy was, save that he was assaulted because he refused to admit guilt as he was not involved in the drugs seized in flat. On a *prima facie* basis bearing in mind that the investigation officer said he saw Azahar with his arm bandaged on 31 July 1984 I accept that the accused caused hurt to Azahar when he refused to fall in with the accused's ploy that he (Azahar) should admit to half of the drugs seized. The implication on a *prima facie* basis was that the accused was in possession of all the drugs found in the flat.

PW4, a deputy superintendent attached to the Enforcement Directorate, Dewan Bandar Raya, testified that the accused was an enforcement officer with the Dewan Bandar Raya. He identified a cap which was shown in photograph (P3D) as an enforcement officer's cap. This cap in the photograph is shown lying on a table. This is the cap which, though not produced in Court, was identified by Inspector Ahmad Nordin as a cap of a Bandar Raya Enforcement Officer.

The investigating officer of the case, PW7, said he sent the package containing 100 rolls and the plastic bag holding a package containing 945 rolls of a substance suspected to be ganja, which he received from PW1, to the chemist for analysis. As stated earlier the analysis by the chemist showed that the 100 rolls contained 38.03 grammes of cannabis and the 945 rolls contained 355.55 grammes of the same substance. The results of the analysis are shown in the chemist report (P23).

PW7 also said he seized two pocket diaries (P20 and P21) and an authority card (P22) from the box under the table in the bedroom of the accused's flat. These diaries were official diaries and they were with the authority card for enforcement officers of the Dewan Bandar Raya and had the accused's name on them.

The cross-examination of the relevant prosecution witnesses especially of Azahar was directed to show that Azahar and not the accused was involved in the drugs and that others had access to the flat and the bedroom.

It is true there were two beds in the bedroom. There was the evidence that one Aziz shared the bedroom with the accused. Aziz could not be traced to give evidence at the trial although a subpoena had been issued against him, but it must be stated here that the cross-examination did not suggest that Aziz was involved with the drugs. There was also evidence that a shower cap was found in the bathroom and it was suggested this could have been used by a woman. Then again the evidence was that when the raiding party left the flat after the arrest of the accused and Azahar the flat was left in a mess but when the police went there to take photographs in the flat, the flat was tidy and the beds made up. Aziz could have tidied the place or somebody else could have done so.

But all these suggestions ignore the evidence that it was the accused who led the police to the discovery of the 945 rolls of ganja in the bathroom and that the accused had tried to make Azahar admit that half the drugs were his (Azahar's) and half the accused's.

Azahar's evidence consequently came under attack during cross-examination. I have dealt with some of the cross-examination earlier. I shall examine some other salient features of the evidence in relation to the cross-examination.

It was put to Azahar that he had been to the flat at 2 p.m. that afternoon on 21 July 1984 and that he had gone again to the flat that night to meet with one Yacob bin Harun to fetch a package. Azahar denied all these. Azahar's evidence was that he had only known the accused 1 week prior to the arrest and he met him twice. The first time was at the badminton Court at Sulaiman Court where the accused introduced himself to Azahar. On the second time two days before the arrest the accused again at the badminton Court had invited him to his flat and had given him his address. Azahar stated that on the night of the arrest it was the first time he visited the accused in his flat. After finishing work in his own repair shop (where he worked as mechanic) in the evening he went home. Later he discovered that his motor cycle was out of order. He borrowed a motor cycle from his neighbour Anuar (the investigating officer of the case, PW7, confirmed returning the motor cycle to Anuar) to go for a ride to some shopping complexes after his dinner since it was Saturday night. While riding towards

town the front and back bulbs of the motor cycle blew and as this happened near Sulaiman Court he decided to go to see the accused for him to keep a watch over his motor cycle. According to the defence it was too much of a coincidence that the bulbs should have blown near the accused's flat. Now, Azahar was a mechanic and if he wanted he could have invented any other reason more complex than can be easily understood to show the reason why he went to the accused's flat but he gave a simple and credible reason - the bulbs blew. Coincidence it might appear to be but I am not prepared to say it was not a casual event nor to say it is unbelievable.

He was asked if the police did not seize about RM600 from him. He denied it though he said he had cash with him and that he had surrendered his things to the police before being placed in the lockup. According to PW8, officer-in-charge of Dang Wangi (Campbell) Police Station, the register of belongings showed that a gold ring and RM436.50 were recorded against Azahar. The inference that the defence wished the Court to draw was that it was unusual for a large sum of money to be found on Azahar. On a *prima facie* basis I did not find it odd for Azahar to have that amount on his person that night. He was the owner of his repair shop, not an employee, and that was Saturday night and he was going out to shopping complexes to enjoy himself.

It was also put to Azahar that when the police searched his house at Pantai Baru a package was discovered hidden in the ceiling of his house. Azahar denied this and the denial was borne out by Inspector Saliman the investigating officer that nothing was discovered in Azahar's house.

Azahar was also asked if he had gone with the police to search a house in Cheras on the night of his arrest. At first he was adamant he did not do so but under re-examination he recollected going to Cheras. He said the accused had implicated him with the drugs and he was asked to go there with the police. The point is that the evidence of Detective Corporal Zakee (PW6) was that while they had gone to Cheras to keep an observation nothing necessarily means that he was involved in the drugs. Bearing in mind his story that the accused had tried to force him to admit to half the drugs found in the flat it seems highly probable that the accused had tried to implicate Azahar at the earliest convenient time after they were arrested to exculpate himself; after all, he was an enforcement officer with the Dewan Bandar Raya and Azahar a mechanic, and it is fair to infer that in such a situation if blame is shifted by a person to his status to a nondescript person before first investigations are carried out, it would probably be believed by the police and throw the police off track.

In assessing the evidence of PW5 I did not take into account that he gave many answers to the effect that he did not know or that he could not remember. In fact such answers were given to questions which were perfectly straight forward and not meant to elicit incriminating replies. He was surly an irritating witness. My impression of him was that he was annoyed to have been implicated in the matter and he clearly showed his annoyance. I also considered that he most probably had not known the accused for a long time; that indeed as he stated he had met his acquaintance one week before the arrest. In his report to the police complaining about the accused beating him he named the accused in his own handwriting as "Yusof bin Ahmad." The accused's name as appears in the charge sheet is "Yusof bin Mohamad." In his evidence he referred to the accused's name as "Mohd. Yusof bin Ahmad." He said the accused gave this latter name when the accused introduced himself - he might have been mistaken but the point is did Azahar know the accused well enough if he could not remember his proper name? Would he have trusted the accused to have dealings in drugs in his house as implied by the defence? I do not think so.

One other matter relating to Azahar. PW6 Corporal Zakee who went for the raid at the flat said he had heard of the name of "Azahar" and the person was involved in heroin trafficking in another area. He however said he did not know PW5 (Azahar) before the raid, but that the "Azahar" was PW5. When examined further he said he only knew the name "Azahar." I can only say that I should disregard this ambiguous piece of evidence as it was hearsay evidence that on Azahar, whether or not he was PW5, was involved in heroin.

While it is true that it has not been established that the accused was the sole occupier of the premises or that he was the sole occupier of the bedroom, there being 2 beds there and it is in evidence one Aziz occupied one of the beds in the room, and there can be inferences drawn that others had access to the flat, the fact remains that the accused has asked PW5 to admit to ownership of half of the ganja found; half being his. To my mind assuming PW5 was telling the truth, bearing in mind my examination of his evidence, the accused was not only aware of the cannabis in the bathroom but also of the cannabis discovered in his bedroom; and not only was he aware of it - from his statement to PW5 he was in possession of all the cannabis found in the house. And the onus is on him to rebut the presumption of trafficking. PW5's evidence and indeed the evidence of all other prosecution witnesses will of course have to be reviewed in the totality of all the evidence adduced by the prosecution and the defence.

Defence

The accused elected to give an unsworn statement on 5 April 1988. On 6 April 1988 he requested for permission to make another unsworn statement. The DPP had no objections and he made the second statement before his 2 witnesses gave evidence.

In the first statement he denied any knowledge of the cannabis found in his flat. He said he had seen Azahar come to his house at about 2 p.m. on 21 July 1984 carrying a plastic bag. At the time he was alone cooking his meal. Azahar had asked if Yacob bin Harun, a mutual friend, had come and he replied no. Azahar asked his permission to ease himself. Azahar left the house 5 minutes later but he did not see if Azahar had carried a bag out as he was busy cooking; and Azahar told him he was coming to his flat that night. Azahar came again to his flat that night and asked if Yacob bin Harun had come. The accused invited him to sit in the sitting room while he went to prepare his uniform for the next day.

Five minutes later the police arrived and one policeman straightaway handcuffed him. One of the policemen said to Azahar, "So you are here Azahar! I have been looking for you for 3 days and you were not in your house!"

According to the accused the police then asked Azahar, "Where is the stuff?" and handcuffed Azahar to him. The police then conducted a search. The accused said,

> A few minutes later one of the policemen pointed out to me a package in a plastic bag and he asked Azahar 'Mana lagi?' Azahar replied, 'Tidak ada.'

The accused said that then the police conducted a search in the living room and kitchen.

The accused gave a long and elaborate story showing that he had known one Yacob bin Harun who introduced Azahar to him one month earlier than March 1984 and that these friends Yacob bin Harun and Azahar, together with two other friends, Zainun bte Abdul Razak and Aziz and all their friends, had access to his flat. He said that Zainun and Aziz lived in the same flat with him. He also recounted events which took place from the time he and Azahar were arrested up to the time Azahar was released from prison and he particularly stressed that on the night of the arrest he saw Azahar's hand bandaged with cloth on Azahar's return

with the police from somewhere. He also said he was taken to Jalan Bandar Police Station on 22 July 1984 after 5.p.m. and put into a lockup with Azahar and he questioned Azahar about the ganja which he suspected belonged to Azahar and he (the accused) became confused and punched Azahar.

In his second statement he said that the evidence of the police that he pointed out "the thing" was not true; the police brought him and Azahar to the bathroom and it was the police who "took the thing." He also said when he injured Azahar, Azahar's hand was already bandaged.

In evaluating his statements as regards what took place at the flat on 21 July 1984 when the police went there and the prosecution evidence on the same matter it will be seen that the salient feature of his statement was that there was only one plastic bag of drugs, the one pointed out to him by the police who had conducted a search and after Azahar had been handcuffed to him. In his first statement there was no mention where this plastic bag was found nor any mention that he and Azahar were brought to his bedroom or the bathroom. The evidence of PW1 (Inspector Ahmad Nordin) and PW6 (Zakee) was clear that the police party save for Mustapha who was left to guard the living room brought both the accused and Azahar to the only bedroom of the house where PW1 discovered a package of 100 rolls of cannabis in a box under a table. It was only after this discovery that both the accused and Azahar were handcuffed.

Azahar at first was not sure when they were handcuffed but later said they were handcuffed before the discovery of the package in the bedroom when the police brought him and the accused to the bedroom.

The accused in his unsworn statements deliberately omitted mention of the discovery of the package in his bedroom. I can see no reason for both PW1 and PW6 to lie on what took place in the bedroom. Azahar's evidence was similar to that of PW1 and PW6 but his recollection of the time when they were handcuffed was not correct, but that is a minor discrepancy.

There was thus a deliberate omission of the search of the bedroom by the accused in his statements.

The accused in his first statement said that after the plastic bag was pointed out to him Azahar was asked, "Mana lagi?" and Azahar replied, "Tidak ada." Inspector Ahmad Nordin (PW1), it will be remembered, had stated in his evidence that after the discovery of the package of cannabis in the bedroom - and this was not the plastic bag - the Inspector asked both the accused and Azahar whether there was more of the stuff in the house. Detective Corporal Zakee said that PW1 asked the accused where the rest of the stuff was and PW5 said "the police" asked the accused where the rest of the stuff was. There might be some discrepancy as to the exact words spoken and to whom they were directed. But whatever the minor discrepancies the evidence adduced on behalf of the prosecution was clear and I accept the evidence that the accused led them to the bath room and pointed to a red basin behind which was a plastic bag containing a package of ganja. Both the statements of the accused, however, skirted referring to the prosecutions evidence that he led the police party to the bathroom and that he pointed out the red basin and that he took down the plastic bag of drugs which had been hidden behind the basin.

His only reference to an object was "a package in a plastic bag." He carefully avoided mentioning that it was a package of drugs - in fact he said the package was not unwrapped nor were its contents showed to him.

Clearly the statement of the accused that the police pointed out to him a package in a plastic bag cannot be believed. There was clear and unambiguous prosecution evidence which I accept that one package of 100 rolls of ganja was found in his bedroom and that he led the police to the bathroom where he pointed to a red basin behind which was hanging from the wall one plastic bag holding one plastic package of 945 rolls of ganja. And the evidence of Inspector Nordin and Corporal Zakee was clear that he took down the plastic bag of drugs.

I now turn to his statement that on the night of the arrest, i.e., 21 July 1984, he saw the right arm of Azahar bandaged with a piece of cloth when Azahar returned with the police three hours after Azahar was taken out by the police. This part has to be tied to another part of his statement where he said on the second day of his arrest, i.e., 22 July 1984, at about 5 p.m. he was taken from Dang Wangi Police Station lockup to Jalan Bandar Police Station lockup and there he told Azahar that the ganja (which had been showed to him (the accused) at the police station) belonged to Azahar. He said,

> I asked him a few questions. At that time I was confused and I punched him. And I said to him, 'Because you put me into trouble.'

All these will have to be examined in the context of the testimony of Azahar that the accused kicked him in the lockup on 26 July 1984 when he refused to play ball with the accused when the latter suggested to him to admit that half of the drugs (recovered) were his (Azahar's). Azahar said,

> The accused asked me to admit that the things - Yang benda itu setengah saya punya setengah dia punya.

Azahar said that when he refused to admit the accused kicked him on his right arm which had previously been fractured. He said he made a police report on 30 July 1984, Jalan Bandar Police Report No. 14411/84 and the police report corroborated his evidence that he was kicked on his right arm on 26 July 1984. Although the exact nature of the accused's suggestion which appeared in Azahar's testimony was not put down in the report it is clear that he was asked to admit to involvement in the drugs which had been seized from the house, PW7, Inspector Saliman, the investigation officer in the case, said that he was informed that Azahar had been injured in his right arm during detention. Under cross-examination he said he was sure that on 23 July 1984 when he went with Azahar to his house for a search and to the accused's flat for photographs to be taken, Azahar's arm was not bandaged. He only saw Azahar's bandaged arm on 30 July 1984 when he brought Azahar to the Magistrate for extension of his remand. Clearly then when he accused said he saw Azahar return with the police on 21 July 1984 with his arm bandaged that cannot be true. It is obvious that the accused had to counter the corroborative police report of Azahar which had been produced in Court bearing out Azahar's testimony that he was kicked by the accused. To my minds he had to confess that he used force on Azahar in that he punched him and avoid the damaging testimony of Azahar that the accused wanted him, who had nothing to do with the drugs, to admit to half of the cannabis found in the flat. My view is that the accused was and is well aware that the minimum presumptive amount for the offence of trafficking in cannabis to be raised under the Dangerous Drugs Act 1952 is 200 grammes and if there is admission by Azahar to half of the 393.58 grammes seized, the presumption would be raised in respect of the accused or Azahar; in fact it is common knowledge that ordinarily a person found with less than 200 grammes of cannabis would not be charged for trafficking which attracts the mandatory death sentence.

Still on the matter of the bandaged arm of Azahar, the accused called a witness DW2 who was a remand prisoner at Pudu jail. DW2 said that on the night of the arrest of both Azahar and the accused, i.e., 21 July 1984, he was in a cell with both of them at Jalan Bandar Police Station. He said when he saw Azahar come into the cell, Azahar had his arm bandaged with a piece of wood. Azahar told him that he had hurt himself when he tried to escape from the police. He was adamant that when he saw this it was on 21 July 1984 at "sunset." Now the time of the arrest of both the accused and Azahar was 9.00 p.m. on 21 July 1984. This is not disputed. The accused had stated that that night the police took Azahar out and that he came back 3 hours later with his arm bandaged. This would have meant Azahar came back past 12 a.m. on 22 July 1984. Clearly DW2 did not see Azahar with his bandaged arm at sunset on 21 July 1984. He lied to help a fellow prisoner, the accused, who was with him at Pudu prison. He studiously avoided stating that he had spoken to the accused at Pudu prison - in fact when cross-examined whether he talked about this case to the accused he said he did not talk to the accused as he was in one block and the accused was in another block. When pressed the admitted meeting with the accused during lunch and during the times when he went to take medicine but he denied conversing with the accused at these times. That is certainly not believable and Azahar's evidence that he was kicked on his right arm on 26 July 1984 supported by his police report in unshaken.

DW2 also referred to the accused beating Azahar. The accused had stated that on 22 July 1984 at 5 p.m. he was taken back to Jalan Bandar Police Station and he was with Azahar in the lockup. He suspected that the ganja belonged to Azahar and questioned him on it. He was confused and he punched Azahar. In his later statement he said he did that because Azahar had put him into trouble. DW2's story was that he was sleeping in the morning of 22 July 1984 when he was awakened by some noise. He saw a policeman scold both Azahar and the accused for fighting and the fighting stopped. Under cross-examination he fixed the time for the incident at 11.00 a.m. to 12 p.m. that morning not after 5 p.m. that day. According to the evidence of Azahar the accused broke his arm on 26 July 1984 and the lies of the accused and DW2 have not shaken his testimony.

The accused also stated that Azahar was brought to his house at Pantai Baru where the house was searched and a parcel was recovered from the ceiling of the house. He also stated that during the journey to and from this house, his brother, DW3, accompanied the police party, himself and Azahar. He said that on the journey back to the police station subsequent to the discovery of a package in the ceiling of Azahar's house after Azahar had pointed to the ceiling, Azahar pleaded with the police "supaya barang tersebut tidak di charge." He said there was a great possibility that his brother, DW3, heard the conversation. DW3 said he could not remember if Azahar had said anything during the return journey. He remembered however that Azahar's arm was bandaged. While he did not go down from the van for the search of Azahar's house he saw the police return with a newspaper package. He said, under cross-examination, that the visit to Azahar's house was 9 a.m. on 23 July 1984. The investigating officer of the case said he left for Azahar's house on 23 July 1984 at 5.35 p.m. and arrived there 20 minutes later and searched the house in the presence of the accused and Azahar. He said nothing was found in the house. He said Azahar's arm was not bandage. And I have no reason to disbelieve his straightforward evidence.

This brings me to the evidence of Azahar which I had stated, in dealing with the evidence at the close of the prosecution's case, will have to be reviewed in the context of all the evidence adduced in the case. As can be observed Azahar was not an altogether model witness; he had some lapses of memory, he was surely and he was irritating. But that is not

to say he was untruthful. The accused has stated that he knew Azahar well before March of 1984 i.e., he had known him for more than 5 months prior to the arrest, through Yacob bin Harun and that Azahar had frequented his flat. If indeed the friendship had been for that long how was it that Azahar was not familiar with the accused's name? He referred to the accused, Yusof bin Mohamad, as "Yusof bin Ahmad" in his own handwriting in his police report and as "Mohd. Yusof bin Ahmad" in his testimony. Was this feigned by Azahar? I have no reason to believe so. I accept the evidence of Azahar that he known the accused only a week before the arrest. And I accept his evidence that he did not know the mysterious person Yacob bin Harun who, according to the accused, Azahar was supposed to have met that night. There was nothing in the statements of the accused or the evidence of his witnesses which can persuade me to change my mind that Azahar was not involved in the drugs found in the accused's flat. I accept the evidence of Azahar that he was on a chance visit to the accused's flat on the night when the police raided the flat.

It was suggested to prosecution witnesses Inspector Nordin (PW1) and Corporal Zakee (PW6) that when they raided the flat they were tracking Azahar but they denied it. While Corporal Zakee had heard of the name "Azahar" prior to the arrest - in fact he only knew of the name "Azahar"; it seems clear he did not know if the name "Azahar" referred to PW5. It is clear too that the statement of the accused that one of the policemen said to Azahar, "So you are here Azahar! I have been looking for you for 3 days and you were not in your house!" cannot be true.

Having viewed the totality of the evidence adduced both by the prosecution and the defence I am impelled to one conclusion - that no reasonable doubt has been created in my mind on the prosection's case that the accused was in possession of the 1045 rolls of ganja amounting to 393.58 grammes of cannabis. He had denied possession of them or trafficking in them but on a balance of probabilities I find he was trafficking in the said drugs. I find him guilty on the charge and I convict him.

Also found at [1988] 2 CLJ 511